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Signed:

Peter K. Trzyna (Reg. No. 32,601)

Date: August 17, 2006

PATENT

Paper No.

File: ProFlowers-P1-98

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor	:	POLIS, Jared S.
Serial No.	:	09/149,650
Filed	:	8 September 1998
For	:	COMPUTERIZED CONTROL SYSTEM LOCATED AT AN ORDER CENTER FOR SHIPPING PRODUCT FROM A REMOTELY LOCATED DISTRIBUTION CENTER
Group Art Unit	:	3628
Examiner	:	Sough, Hyung Sub

MS: No Fee Amendment
The Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF PROFESSOR LEE A. HOLLAAR

SIR:

I have personal knowledge of the subject matter of this declaration, and if called as a witness, would testify thereto.

1. My name is Lee A. Hollaar. I am a Professor of Computer Science in the School of Computing at the University of Utah, where I have been a faculty member since 1980. Prior to that, I was a faculty member at the University of Illinois at Urbana-Champaign. I received my Ph.D. in Computer Science from the University of Illinois at Urbana-Champaign in 1975. I am also a Registered Patent Agent.

2. As a professor at the Universities of Illinois and Utah, I have taught courses in software and system development, including courses where students had to complete system development projects.

3. I have been retained to give my opinion as to Rifkin reference cited by the examiner. (Glenn Rifkin, "Shopping for Groceries on Line [sic]," New York Times (Late edition, East Coast), July 14, 1997, page 1.37.)

4. Contrary to the examiner's assertion that Rifkin describes a system where "This order is received by a transaction server as a packing order, which forwards it to a separate distribution center (page 3, paragraphs 6-7)," the article is really only speculation.

5. In particular, the paragraphs cited by the examiner make it clear that Rifkin does not describe a working system. The system described by Rifkin that is actually operating is described as "mostly manual."

6. Rifkin further makes clear that the system cited by the examiner is speculative. "Later this year [1997], however, Shoplink *plans to* unveil a highly automated system ..." "When that system is operating ..." (Emphasis added.) And Rifkin dismisses such speculation from the head of Shoplink, Robert Crowell: "But so far, Mr. Crowell's dream outruns reality."

7. Even if the Rifkin reference describes a system that had been reduced to practice at the time of the reference, the description is not adequate to allow a person skilled in the art to implement the system. There are no details given about how such a system operates, how its hardware is configured, or how the transaction server forwards a packing order to a separate distribution center.

8. The Rifkin reference provides no substantial guidance to any implementation. In my opinion, as much experimentation and development would be required as would be the case if the developer had never seen the Rifkin reference.

9. Had I provided a system description as in the Rifkin reference to one of my senior computer science project courses and asked them to produce such a system, I would have been bombarded with questions regarding what I really wanted, because the assignment would have been far too vague.

10. I note that the examiner recognizes that the Rifkin reference doesn't disclose far more than it discloses (four bullet points for things not disclosed versus only two bullet points for things disclosed).

11. For example, the examiner states that Rifkin does not disclose "printing a hard copy of the packing list," but asserts that it does disclose "that the order is sent from the transaction server to handheld devices at the distribution center." Rifkin does nothing of the sort. It does not describe how the system at the time of the reference works, other than that it is "mostly manual." What it does is speculate that a system could be developed in the future.

12. It is my opinion that the Rifkin reference does not describe what the examiner claims, but only speculates about the possibility of using such a system at some time in the future. Furthermore, the description of the future system is so incomplete that a person skilled in the art would be unable to implement it without undue experimentation and extensive development, with the Rifkin reference providing no substantial help.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 8/3/2006



Lee A. Hollaar